

CALCO LOGGING, INC.)
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 Appellant)
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 Representing the Appellant:)
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AGBCA No. 2004-143-1

DECISION OF THE BOARD OF CONTRACT APPEALS

September 7, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

On February 20, 2004, the Board received an appeal from Calco Logging, Inc. of West Point, California. The appeal was from a final decision dated December 3, 2003, issued by the Contracting Officer (CO), Stanislaus National Forest, Sonora, California. The appeal was out of timber sale contract No. 058898. In his final decision, the CO determined that Calco was liable to the FS for a total of \$92,593.43, for its failure to cut, remove and pay for Included Timber in the Pumpkin Hollow Timber Sale. Of the \$92,593.43, all but \$3,546.03 of that sum had been paid, with the remainder subject to a bill of collection. The Appellant, by letter of April 12, 2004, advised the Board that it was not asking for return of the payment already made to the FS, but only relief as to the additional amount billed of \$3,546.03.

The Board has jurisdiction over the timely appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA).

On May 11, 2004, the Board held a telephone conference with the Appellant and counsel for the FS. In that conference, the Board pointed out that the sum in issue was derived by taking several estimated numbers adding up to the \$92,593.43 total, and that if those estimated numbers changed, in favor of Appellant, then the amount sought by the FS might be negated. The parties were urged to engage in discussions.

On May 20, 2004, the Board received a letter from counsel for the FS wherein he advised the Board that the parties had agreed to settle the matter. Subsequently the Board received a letter from Appellant confirming the withdrawal of the claim.

DECISION

Given the agreement of the parties and the settlement of the claim, the appeal is dismissed with prejudice.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
September 7, 2004